October 4, 2004

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: WC Docket No. 04-313; CC Docket Nos. 01-338, 96-98, and 98-147

Dear Ms. Dortch:

The undersigned competitive local exchange providers and trade associations hereby submit the attached summary of data compiled from the records of state commission proceedings across the country in response to the Commission's request for granular data on the state of facilities deployment. The data, gathered over the last year in state impairment proceedings concerning actual loop/transport deployment by competitive carriers, is the best possible factual indicator where there are – and are not -- alternatives to unbundled incumbent facilities.

In order to promote facilities-based competition, the Commission must create an unbundling regime that ensures access to the core bottleneck ILEC facilities – local loops and interoffice transport. Although in many circumstances competitive carriers can purchase and deploy their own electronic equipment, that is rarely if ever the case for transmission facilities such as loops and transport, especially at the modest capacity limits per route that the Commission made available as UNEs in the *Triennial Review Order* (*TRO*). The data submitted in the state proceedings to implement the *TRO* is the most recent evidence of actual competitive deployment, and that evidence supports the Commission's nationwide impairment finding for the limited amount of transmission capacity that may be unbundled. This information was not available to the Commission in the necessary format at the time the Commission decided the *TRO*. Now that this data is organized in a manner that reflects the Commission's assessment of how impairment should be determined for high capacity loops and transport, it merits the Commission's close consideration.

The data gathered in the state proceedings are the timeliest available, and it shows where competitive facilities at the DS1, DS3 and dark fiber capacity levels are actually deployed. Because virtually all of this data was produced in 2004, and because the incumbents had a full and fair opportunity to present evidence of such deployment, there

is no reason to believe that there have been any significant changes in the data in the past few months.

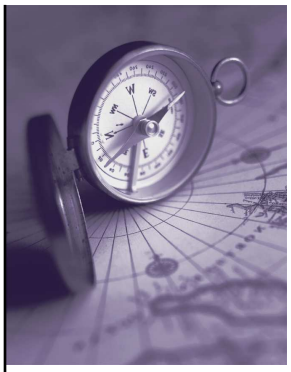
The data summarized in the attached study is also the most complete data likely to be available to the Commission as it works to adopt permanent unbundling rules in response to the D.C. Circuit's remand. Even though complete data for all states is not available, the results from the states where such data is available – which represent a wide cross-section of the country – are remarkably consistent. This data demonstrates what competitive carriers have long contended: that alternatives to ILEC loop and transport facilities are rarely available to competitors.

The state data further demonstrates that there would only be a small number of "false positives" (*i.e.*, cases in which ILECs would be required to unbundle UNEs when CLECs are not impaired) if the Commission adopts a general unbundling rule on remand that is primarily (if not exclusively) based on the *TRO's* capacity thresholds. Thus, such a rule would not be significantly under-predictive of non-impairment. In contrast, this same data demonstrates that any attempt to assess impairment at the capacity limits established in the *TRO* across an arbitrarily broad geographic market would yield significant "false negatives." In other words, such a test would cause the Commission to erroneously eliminate access to UNEs where CLECs are in fact impaired.

Thus, we believe that the attached data is the most accurate and timely data available for the Commission to use in addressing questions posed by the D.C. Circuit's on remand. We believe that this data provides substantial confirmation of the wisdom of the Commission's previous conclusions regarding the impairment faced by competitive carriers in the absence of unbundled access to DS1, DS3 and dark fiber loop and transport UNEs.

Sincerely,

Comptel/ASCENT
Association for Local Telecommunications Service
AT&T
Broadview Networks, Inc.
Covad Communications Group
ITC^DeltaCom
KMC Telecom
MCI, Inc.
NuVox Communications
XO Communications



ANALYSIS OF STATE SPECIFIC LOOP AND TRANSPORT DATA

IMPAIRMENT ANALYSIS

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I. EXECUTIVE SUMMARY AND INTRODUCTION

Purpose:

The purpose of this project is to construct a database of CLEC owned and operated loop and transport facilities that will facilitate an empirically based evaluation of the extent to which CLECs may be impaired without unbundled access to the incumbent local exchange companies' ("ILECs'") facilities. The database constructed as part of this project is based in large part on the public data that were made available in various state proceedings, initiated in response to the FCC's *Triennial Review Order*.[1] This review included data from 14 states, including New York, California, Texas, Florida, and Illinois. Data from these states were used because the records in the state proceedings were the most complete available to the reviewers. There was no effort to select states based on any preconceived expectation of the anticipated results. It should be noted, however, that in New York and Washington, the ILEC elected not to present a case regarding non-impairment for high capacity loops. The data for New York were taken directly from a New York Public Service Commission Staff Report released on March 31, 2004 without further analysis on our part.[2]

In the body of this report, we first discuss the nature of the data gathering process and the data that constitute the database reported in this document. Next we discuss the various impairment criteria that were applied to those data. Last, we describe the state-specific results of our analyses.

Summary of Results – High Capacity Loops

Self-provisioning: Using the criteria discussed below, our analysis shows that a total of 130 buildings in the 12 states we reviewed have two or more CLEC reported self-providers of standalone (2 or fewer) DS3 loops, and no buildings have two or more CLEC reported self-providers of dark fiber loops.

Wholesale: Using the criteria discussed below, our analysis shows that a total of 49 buildings in the 12 states we reviewed have two or more CLEC reported providers of

[1] *Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, In the Matter of Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers (CC Docket No. 01-338); Implementation of the Local Competition Provisions of the Telecommunications Act of 1996 (CC Docket No. 96-989); Deployment of Wireline Services Offering Advanced Telecommunications Capability (CC Docket No. 98-147), FCC No. 03-36, (rel. Aug. 21, 2003) (hereinafter, "*Triennial Review Order*").
[2] New York Public Service Commission Case 03-C-0821 "Department of Public Service Staff's Analysis of Switching and Transport Triggers" dated March 31, 2004 "NYPSC Staff Report").

DS3 loops and 36 buildings have two or more CLEC reported wholesale providers of DS1 loops.

Summary of Results – Dedicated Transport

Self-provisioning: Using the criteria discussed below, our analysis identified 55 routes in the 14 states we reviewed on which there were three or more CLEC-reported self-provisioners of DS3 transport, and 46 routes that satisfied these criteria for dark fiber transport.

Wholesale: Using the criteria discussed below, our analysis identified 40 routes in the 14 states we reviewed on which there were two or more CLEC-reported providers of wholesale DS3 transport, and 49 routes that satisfied these criteria for DS1 transport.

II. DATA COLLECTION PROCESS

The data in the various state proceedings were for the most part provided under confidentiality agreements. In order to protect the confidentiality of those data, we relied upon aggregated loop and transport data collected and analyzed in the state *Triennial Review Order* proceedings, without manipulating or re-using the underlying proprietary CLEC data responses. For the purposes of this report, it was not necessary to use the underlying CLEC data, although those data would be available if permitted pursuant to the state proprietary agreements or otherwise agreed to by the participating CLECs.

The database constructed for this project affords the following capabilities and analyses:

1. Evaluation of CLEC high capacity loop facilities
    a. For each building proposed by an ILEC in state *Triennial Review Order* cases:
        i. Number of CLECs that have deployed fiber loop facilities
        ii. Number of Self-provisioning CLECs
            a. Number of CLECs representing that they provide 2 or fewer DS3's of capacity into each building
            b. Number of CLECs representing they provide dark fiber at each building
        iii. Number of CLECs that have full building access to the entire building
        iv. Number of CLECs offering wholesale loop service
            a. Wholesale offering at the DS3 capacity level
            b. Wholesale offering at the DS1 capacity level

2. Evaluation of CLEC transport facilities
    a. For each transport route proposed by an ILEC in state *Triennial Review Order* cases:
        i. Number of fiber-based CLECs collocated at both ILEC wire center endpoints ("A" and "Z" wire centers)
        ii. Number of fiber-based CLECs reporting they have provisioned or are offering dedicated transport between the A and Z wire centers
        iii. Number of self-provisioning CLECs:
            a. Number of CLECs that represented they have provisioned dedicated transport between the "A" and "Z" wire centers at the DS3 capacity level, at a quantity less than 13.

b. Number of CLECs that represented they have provisioned dedicated dark fiber transport facilities between the "A" and "Z" wire centers

iv. Number of fiber-based wholesale CLECs collocated at both wire center endpoints ("A" and "Z").
   a. Number of wholesale CLECs offering dedicated transport between wire centers "A" and "Z" to other carriers
      a. Number of wholesale CLECs offering DS3 dedicated transport between "A" and "Z" to other carriers
      b. Number of wholesale CLECs offering DS1 dedicated transport between "A" and "Z" to other carriers

The data in the state proceedings were collected for the most part[3] on the basis of responses to two types of discovery: discovery issued by the state commissions and discovery issued by the ILECs and CLECs. While the ILECs and the CLECs issued generally comprehensive sets of discovery in all state proceedings, the commissions themselves also conducted discovery in a number of states. The table below identifies the states in which commissions, ILECs and CLECs issued sets of discovery.

[3] Typically, additional information regarding loop and transport routes was provided during the course of the proceedings based on expert knowledge of CLEC personnel or expert witness research.

Table A
Commission and ILEC/CLEC Discovery

State	Commission Discovery	ILEC/CLEC Discovery
Michigan	X	X
Illinois		X
Ohio	X	X
Wisconsin	X	X
Indiana	X	X
Missouri	X	X
Oklahoma	X	X
Texas	X	X
Florida	X	X
Tennessee		X
Georgia		X
Washington State	X	X
New York	X	X
California	X	X

For the states indicated in the left-hand column above, the state commissions sent out detailed questionnaires to all CLECs in their respective states seeking information regarding both high capacity loops and transport.[4]

For high-capacity loops, CLECs were typically asked by the state commission to provide the following data either under oath or as part of sworn declarations:

- building addresses being served by their owned loop facilities,
- relevant capacity levels being provided,
- quantities of each capacity level being provided,
- whether the CLEC had full access to the building, and
- whether the CLEC self-provisions or wholesales loops at the building.

For dedicated transport, the commission typically asked CLECs to provide the following data either under oath or as part of sworn declarations:

- wire centers in which they have established fiber based collocation arrangements,
- wire center pairs between which they have provisioned transport,
- the relevant capacity levels provided on each transport route,
- quantities served, by capacity level, on each transport route, and

[4] In New York and Washington, the ILECs did not place any loops at issue; thus there are no data regarding loops for those states.

- whether the CLEC self-provisions or wholesales transport on such routes.

For states in which the commission did not send out questionnaires, comparable data were collected through a combination of ILEC discovery to CLECs as well as CLEC discovery amongst themselves. In states in which the commission did send out questionnaires, data were often clarified and reconfirmed through ILEC/CLEC discovery.

III. STATUS OF STATE PROCEEDINGS

Each of the state records evaluated here involved a full data collection and analysis effort, and, in all but 1 case, the state commission directed that the data collection record be closed. As discussed in the previous section, in all states, full discovery was conducted. Further, as shown in the table below, direct and rebuttal testimony was filed by both ILECs and CLECs in most of these states, and testimony was, at a minimum, entered into the record at a Commission hearing. The table also indicates the states where a full evidentiary hearing was held. Briefs were submitted in the states of Michigan, Texas, and California. In Michigan, an ALJ recommended decision was issued.

Table B
Status of State Proceedings

State	Direct Testimony	Rebuttal Testimony	Record Complete	Evidentiary Hearings	Briefs	Recom. Decision
Michigan	X	X	X	X	X	X
Illinois	X	X	X	X		
Ohio	X	X	X	X		
Wisconsin	X	X	X	X		
Indiana	X	X	X	X		
Missouri	X	X	X			
Oklahoma	X	X	X			
Texas	X	X	X	X	X	
Florida	X	X	X			
Tennessee	X	X	X			
Georgia	X	X	X			
Washington State	X	X				
New York	X	X	X			
California	X	X	X	X	X	

IV. EVALUATION OF DATA—LOOP AND TRANSPORT IMPAIRMENT FINDINGS

In all states, each ILEC filed an initial proposal identifying the buildings and transport routes where it believed the FCC's test was met.[5]

This report provides the results of applying the specific criteria identified below to the entire collection of data amassed in the state proceedings in an effort to determine the instances in which CLECs actually self-provision or wholesale functionalities that may be purchased as UNEs under the *Triennial Review Order*. Each of the criteria that was applied to the data regarding loops and for transport is discussed individually below.

A. High-Capacity Loops

In the *Triennial Review Order*, the FCC provided an extensive discussion on the criteria to be used in analyzing whether or not CLECs are impaired without access to high capacity loops. The FCC's impairment tests and analysis may fairly be summarized as follows:

- National finding of non-impairment for OCN or Multiple DS3 (3 or more) loop locations.
- National finding of impairment for DS1, dark fiber, and standalone DS3 (up to 2 DS3s) loop locations.
- Self-provisioning and wholesale criteria to identify exceptions to the national finding. These criteria provided that there should be a finding of "no impairment" if, under described conditions, there are two self-providers (for DS3 and dark fiber) or wholesalers (for DS3 and DS1) of loops at the capacity levels identified immediately above.

The data provided by the CLECs in the state proceedings were analyzed as follows. First, buildings initially identified by the ILEC for review and for which there was no record in responses to either commission-issued or ILEC/CLEC-issued discovery were removed from the list.

In many states, the ILECs attempted to add to the identified building locations by using a third party database called GeoResults, which proved to be highly inaccurate based upon the sworn information provided by the CLECs themselves. GeoResults relied upon identifying equipment owned by CLECs and other parties that may be connected to fiber optic equipment, but it provided no actual validation as to whether there were any CLEC-

[5] There were some states in which the ILEC, on its own accord, reduced the number of buildings or transport routes for which it claimed the triggers were met. In Florida, for example, BellSouth made four separate filings in which it drastically reduced the number of both loop and transport routes for which it claimed the triggers were met. Our analysis incorporates such ILEC-initiated reductions.

owned facilities actually going into any building.[6] This practice caused the ILECs to count buildings in which CLEC equipment may have been present but for which there was no evidence that the CLEC actually owned or operated loop facilities.[7]

Buildings in which two or more CLECs did not have access to the entire premises were removed. Full building access is an explicit requirement for the wholesale test in the *Triennial Review Order*, and also an important requirement to provide evidence that CLECs can economically self-provision to a given building.[8]

In addition to these adjustments the following self-provisioning and wholesale criteria were applied.

Self-Provisioning Criteria

We removed buildings for which 2 or more CLECs did not acknowledge that they self-provision loops at the specific standalone DS3 or dark fiber capacity levels. Next, we eliminated buildings for which, after removing CLECs that are only providing service at the OCn or multiple DS3 (3 or more) capacity levels, there were not 2 or more remaining CLECs self-provisioning service at the requisite levels.

Wholesale Criteria

We removed buildings for which two or more CLECs did not acknowledge that they offer wholesale at the DS3 or DS1 capacity levels in conformity with the criteria set out in the *Triennial Review Order.*[9]

1. State-Level Review of Building Locations

The ILECs did not present evidence challenging the Commission's findings regarding high capacity loops in many states. This report provides the results of the ILEC presentation in 12 states (Illinois, Indiana, Michigan, Ohio, Wisconsin, California, Texas, Missouri, Oklahoma, Florida, Georgia and Tennessee.) As noted above, Verizon and Qwest declined to propose any building locations in New York or Washington, thus there are no comparable data available for those states.

[6] For example, SBC eliminated the buildings for which it relied upon GeoResults in Michigan, which significantly reduced the total number of buildings SBC proposed that met the self-provisioning trigger.
[7] Often the equipment presented as CLEC owned was in fact owned by non-CLEC end user customers, such as banks and retail establishments.
[8] The impact of applying this standard to the self-provisioning trigger was nominal, and in many states had no effect whatsoever.
[9] Many CLECs that were listed as wholesalers in the ILEC proposals filed either sworn testimony or affidavits under oath denying that they provide wholesale loops as defined by the *Triennial Review Order*.

2. Loop Self-Provisioning

The objective of the FCC's self-provisioning test was to identify specific buildings in which economic conditions were such that a CLEC could justify building, on a standalone basis, 2 or fewer DS3 loops or dark fiber loops. The FCC's *Triennial Review Order* held that if two or more CLECs are providing service at the specific capacity level for which unbundling was otherwise required, then the national finding of impairment had been overcome for that location.

In the 12 states referenced above, the ILECs claimed that a total of 954 buildings met the self-provisioning test for both DS3 and dark fiber loops.

In general, the ILECs' evaluations of CLEC self-provisioning loop data were flawed for a number of reasons, the most important of which were the following:

- The ILECs misrepresented or ignored CLEC data.
- The ILECs inappropriately relied upon an inaccurate third party database (GeoResults).
- The ILECs typically claimed that firms that provision OCn loops or three or more DS3s met the requirements for both the DS3 and dark fiber loops, despite the fact that the *Triennial Review Order* required that the impairment analysis be conducted on a "standalone" basis for the limited capacity facilities that are available as UNEs.

Using the criteria discussed herein, our analysis shows that only 130 buildings satisfy the criteria for DS3 loops, while none satisfies the criteria for dark fiber loops.[10] The state specific data are found below in Tables 1 and 2.

[10] While many of the buildings for each state had CLECs that indicated they had provisioned fiber optic loops, most CLECs indicated that they did not self-deploy dark fiber loop facilities. At least one CLEC testified that its typical deployment of fiber to a building involved only connecting fiber strands that are being lit by fiber optic equipment to the ring at the manhole. The remaining unused fiber in the sheath would remain unspliced at the manhole, providing no dark fiber connectivity from the building back to the CLEC's node.

Table 1
High Capacity Loops – Self Provisioning DS3

State	Buildings Reviewed	Criteria Met
Michigan	39	3
Illinois	122	30
Ohio	31	8
Wisconsin	14	3
Indiana	61	1
Missouri	86	0
Oklahoma	29	2
Texas	204	38
Florida	74	23
Tennessee	37	9
Georgia	54	13
Washington State	0	N/A
New York	0	N/A
California	203	0
Total	954	130

Table 2
High Capacity Loops – Self Provisioning Dark Fiber

State	Buildings Reviewed	Criteria Met
Michigan	39	0
Illinois	122	0
Ohio	31	0
Wisconsin	14	0
Indiana	61	0
Missouri	86	0
Oklahoma	29	0
Texas	204	0
Florida	74	0
Tennessee	37	0
Georgia	54	0
Washington State	0	N/A
New York	0	N/A
California	203	0
Total	954	0

3. Loop Wholesaling

The *Triennial Review Order* sought to identify specific buildings in which 2 or more carriers other than the ILEC are offering wholesale service at the relevant capacity levels (DS3, DS1). In addition, in order to qualify as an eligible wholesaler, a CLECs must, among other things, have access to all customer locations in the entire building and must have a generally available wholesale service offering. [11]

The ILECs claimed that the wholesale test was met for DS3 loops at a total of 719 buildings in the 12 states we reviewed and for DS1 loops at 724 buildings.

In general, the ILECs' evaluations of CLEC wholesale data were flawed for a number of reasons, the most important of which were the following:

- Misrepresentation/ignoring of CLEC data – specifically the inclusion of CLECs as wholesalers even in the face of an express denial by the alleged wholesaler.
- Inclusion of CLECs that do not offer service at the specific capacity levels.
- Inclusion of locations in which CLECs do not have full building access.
- Reliance upon inaccurate third party database (GeoResults).

Using the criteria discussed herein, we found two or more wholesalers offering DS3 wholesale loops at a total of 49 buildings in the 12 states we reviewed and two or more wholesalers of DS1 loops at 36 buildings. The state-specific data are found in the tables below.

[11] In order to meet the requirement of general availability, cross-connections must be made available at a collocation arrangement in an ILEC wire center.

Table 3
High Capacity Loops – Wholesale DS3s

State	Buildings Reviewed	Criteria Met
Michigan	19	0
Illinois	122	0
Ohio	31	1
Wisconsin	0	0
Indiana	0	0
Missouri	86	0
Oklahoma	0	0
Texas	110	46
Florida	57	0
Tennessee	37	2
Georgia	54	0
Washington State	0	N/A
New York	0	N/A
California	203	0
Total	719	49

Table 4
High Capacity Loops – Wholesale DS1s

State	Buildings Reviewed	Criteria Met
Michigan	19	0
Illinois	122	0
Ohio	31	0
Wisconsin	0	0
Indiana	0	0
Missouri	86	0
Oklahoma	0	N/A
Texas	110	35
Florida	68	0
Tennessee	31	1
Georgia	54	0
Washington State	0	N/A
New York	0	N/A
California	203	0
Total	724	36

B. Dedicated Transport

In the *Triennial Review Order*, the FCC provided an extensive discussion on the criteria to be used in analyzing whether or not CLECs are impaired without access to the ILECs dedicated transport facilities. The FCC's impairment tests and analysis are summarized as follows:

- National finding of non-impairment for dedicated transport between ILEC wire centers at OCn and multiple DS3 (13 or more) capacity levels.
- National finding of impairment at the DS1, dark fiber and standalone DS3 (up to 12 DS3s) capacity levels for dedicated transport between ILEC wire centers.
- Self-provisioning and wholesale tests established to identify exceptions to the national finding. These criteria provided that there should be a finding of "no impairment" if, under described conditions, there are three self-providers (for DS3 and dark fiber) or two wholesalers (for DS3 and DS1) of transport on a route at the capacity levels identified immediately above.

The FCC mandated impairment test was implemented in this report as follows. First, where there was no record of CLEC-provided transport facilities on a route in the responses that CLECs provided to state commission issued or ILEC/CLEC issued

discovery, routes initially identified by the ILEC were removed.[12] In many states, the ILEC relied upon its own collocation records in addition to the discovery process. The ILEC collocation records in many states were often inconsistent with the CLECs' own representations of their networks. Accordingly, CLEC data on fiber-based collocation were viewed as the preferable source where there was a conflict.

In addition, the following self-provisioning and wholesale criteria were applied.

Self Provisioning Criteria

We removed routes on which 3 or more CLECs did not acknowledge they self-provide transport between the two wire center endpoints at the relevant capacity levels (12 or fewer DS3s and dark fiber). Next, we removed routes for which, after removing CLECs that are only providing service at the OCn or multiple DS3 (13 or more) capacity levels, there were not three or more remaining CLECs that acknowledged self-provisioning transport between the two endpoints at the requisite levels.

Wholesale Criteria

We removed routes on which 2 or more CLECs did not acknowledge offering wholesale transport between the two wire center endpoints at the relevant capacity levels (DS1 and DS3) in conformity with the criteria set out in the *Triennial Review Order*.

1. State-Level Review of Transport Routes

To our knowledge, the ILECs did not present evidence challenging the Commission's findings regarding dedicated transport in all states. This report provides the results of the ILEC presentation in 14 states (the 5 Ameritech states, California, Texas, Missouri, Oklahoma, Florida, Georgia, Tennessee, New York, and Washington.)

2. Transport Self-Provisioning

The *Triennial Review Order* sought to identify specific routes on which three or more CLECs are providing service at or below the specific capacity level for which unbundling was otherwise required.

[12] Many CLECs that implemented collocation arrangements did so to deploy equipment such as digital loop carrier systems (DLCs) and digital subscriber line access multiplexers (DSLAMs) to aggregate unbundled loops. Deployment of such equipment typically will not provide the ability to provide dedicated transport between wire centers unless additional equipment is deployed and the appropriate engineering and provisioning is preformed to create a dedicated path between the two wire center endpoints.

In the 14 states referenced above, excluding New York, the ILECs claimed that 1,502 routes met the self-provisioning test for DS3 transport and that 1,496 routes met the self-provisioning test for dark fiber transport. In New York, Verizon initially proposed that over 4,000 routes met the test for that state alone.

In general, the ILECs' evaluations of CLEC self-provisioning transport data were flawed for a number of reasons, the most important of which were the following:

- The ILECs misrepresented or ignored CLEC data.
- The ILECs assumed that transport routes exist between each and every CLEC fiber-based collocation, despite CLEC explicit denials that transport routes have been provisioned between specific wire centers.
- The ILECs included routes for which the CLEC was not providing service at the DS3 or dark fiber capacity levels.

Using the criteria discussed herein, we found that there were 55 routes in the 14 states we reviewed where there were three or more self-providers of DS3 transport at the 12 DS3 or lower level and 46 routes where three or more CLECs self-provide dark fiber transport. We have also included data for routes that shows where there are one or more CLEC self-providers—there are 215 of such routes for DS3s and 18 for dark fiber. The state-specific data are found in the tables below.

Table 5
Dedicated Transport – Self-Provisioning DS3

State	Routes Reviewed	Routes w/ 3 or more self-providers	Routes w/ 1 or more self-providers
Michigan	27	0	15
Illinois	127	0	0
Ohio	9	2	18
Wisconsin	22	0	22
Indiana	15	2	12
Missouri	30	0	1
Oklahoma	3	0	0
Texas	132	3	18
Florida	718	0	66
Tennessee	81	0	0
Georgia	154	0	63
Washington State	28	0	N/A
New York	4,000	48	N/A
California	161	0	N/A
Total	5,502	55	215

Table 6
Dedicated Transport – Self-Provisioning Dark Fiber

State	Routes Reviewed	Routes w/ 3 or more self-providers	Routes w/ 1 or more self-providers
Michigan	27	0	0
Illinois	127	0	0
Ohio	9	0	18
Wisconsin	22	0	0
Indiana	15	0	0
Missouri	30	0	0
Oklahoma	3	0	0
Texas	132	0	0
Florida	718	0	0
Tennessee	75	0	0
Georgia	154	0	0
Washington State	28	0	N/A
New York	4,000	46	46
California	161	0	N/A
Total	5,496	46	64

3. Transport Wholesaling

The *Triennial Review Order* sought to identify specific routes on which two or more CLECs are offering wholesale transport at the relevant capacity levels (DS3, DS1). In addition, in order to qualify as an eligible wholesaler, a carrier must, among other things, have a generally available wholesale service offering and must be able to make cross-connects available at a collocation in an ILEC office.

For the identified states other than New York, the ILECs claimed that 2,195 routes meet the wholesale test for transport at both the DS1 and DS3 capacity levels, and 2,189 routes meet the wholesale test at the dark fiber capacity level. For New York alone, Verizon proposed that over 4,000 transport routes met the test.

In general, the ILECs' evaluations of CLEC wholesale data were flawed for a number of reasons, the most important of which were the following:

- The ILECs misrepresented or ignored CLEC data.[13]
- The ILECs included CLECs as wholesalers despite their express denial that they did not engage in this activity.[14]
- The ILECs included CLECs that do not offer wholesale service at the specific capacity levels on the specific route.
- The ILECs assumed that transport routes exist between each and every CLEC fiber-based collocation, despite CLEC denials that transport routes have been provisioned between specific wire centers.

Using the criteria discussed herein, we found that, in the 14 states we reviewed, there are 40 transport routes on which two or more CLECs acknowledged they provide wholesale DS3 transport, 49 routes on which two or more CLECs acknowledge they provide DS1 transport and no routes where two or more CLECs acknowledge they provide wholesale dark fiber transport. We have also included data for routes on which there are one or more wholesale providers—there are 803 of such routes for DS3s, 150 for DS1s and 877 for dark fiber. The state-specific data are found in the tables below.

Table 7
Dedicated Transport – Wholesale DS3

State	Routes Reviewed	Routes w/ 2 or more wholesalers	Routes w/ 1 or more wholesalers
Michigan	49	0	8
Illinois	285	0	0
Ohio	28	0	11
Wisconsin	19	0	6
Indiana	0	0	0
Missouri	43	0	1
Oklahoma	7	0	1
Texas	280	3	31
Florida	718	0	690
Tennessee	81	0	0
Georgia	154	0	55
Washington State	29	0	N/A
New York	4,000	37	N/A
California	502	0	N/A
Total	6,195	40	803

[13] Many CLECs denied providing dedicated transport between wire center collocations, but these were nevertheless included by the ILECs. The ILECs also attempted to use their own collocation records as evidence that other CLECs were providing transport, and in some cases, they asserted that CLECs that were no longer doing business, or that never actually implemented a collocation arrangement in the wire center, provided evidence of transport deployment.

[14] Similar to high capacity loops, most CLECs filed either sworn testimony or discovery responses under oath denying that they provide wholesale transport as defined in the *Triennial Review Order*.

Table 8
Dedicated Transport – Wholesale DS1

State	Routes Reviewed	Routes w/ 2 or more wholesalers	Routes w/ 1 or more wholesalers
Michigan	49	0	5
Illinois	285	0	0
Ohio	28	0	7
Wisconsin	19	0	8
Indiana	0	0	0
Missouri	43	0	1
Oklahoma	7	0	1
Texas	280	13	31
Florida	718	0	42
Tennessee	81	0	0
Georgia	154	0	55
Washington State	29	0	N/A
New York	4,000	36	N/A
California	502	0	N/A
Total	6,195	49	150

Table 9
Dedicated Transport – Wholesale Dark Fiber

State	Routes Reviewed	Routes w/ 2 or more wholesalers	Routes w/ 1 wholesaler
Michigan	49	0	0
Illinois	285	0	140
Ohio	28	0	0
Wisconsin	19	0	0
Indiana	0	0	0
Missouri	43	0	1
Oklahoma	7	0	0
Texas	280	0	0
Florida	718	0	681
Tennessee	75	0	0
Georgia	154	0	55
Washington State	29	0	N/A
New York	4,000	0	N/A
California	502	0	N/A
Total	6,189	0	877

In the state *Triennial Review Order* proceedings, the majority of CLECs contradicted the claims by the ILECs that they actually provided or offered transport between the wire center end points in which they were collocated. The table below shows the number of routes that have the same CLEC collocated at each end.

Table 10
Number of Routes That Have the Same CLEC Collocated at Each End

State	3 or More Collocators	4 or More Collocators	5 or More Collocators
IL	127	51	28
IN	14	6	0
MI	15	3	0
OH	18	4	2
WI	21	9	0
MO	20	10	0
OK	0	0	0
TX	132	66	29
FL	491	269	117
GA	95	70	57
TN	28	0	0
Total	**961**	**488**	**233**

V. Conclusion

In this paper we have discussed the construction of data bases with state specific information for loop transport and dedicated transport. The database is used to provide additional insight into how the application of impairment criteria discussed herein impacts findings of impairment.